

[Senate Bill 705](#) (Hill)

Program: Transactions and Use

Sponsors: San Mateo County

Transportation Agency for Monterey County

Revenue and Taxation Code Sections 7295, 7296, 7297, and 7298

Effective: January 1, 2016

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**Summary:** Authorizes both San Mateo County and the Transportation Agency for Monterey County (TAMC) to impose a countywide transportation program transactions and use tax (district tax), until January 1, 2026. The tax may exceed the existing 2% rate limitation.

**Purpose:** To provide additional funding for transportation programs.

**Fiscal Impact Summary:** Approximately \$96 million annually for San Mateo County and \$26.8 million annually for Monterey County.

**Existing Law:** The **Transactions and Use Tax Law**<sup>1</sup> and the **Additional Local Taxes Law**<sup>2</sup> authorize cities and counties (and special purpose entities) to impose district taxes under specified conditions. Counties may impose a district tax for general purposes and special purposes at a rate of 0.125%, or multiples of 0.125%, if the ordinance imposing the tax is approved by the required percentage of voters in the county. Cities also may impose a district tax for general purposes and special purposes at a rate of 0.125%, or multiples of 0.125%, if the ordinance imposing the tax is approved by the required percentage of voters in the city. The combined district tax rate imposed within any local jurisdiction cannot exceed 2%<sup>3</sup> (with the exception of the counties of Alameda, Contra Costa, and Los Angeles<sup>4</sup>).

In addition, Section 7291 authorizes Alameda County and Contra Costa County to impose a district tax for countywide transportation programs at a capped rate of 0.5%, which, in combination with other district taxes, would exceed the 2% limitation established in existing law, if all of the following conditions are met:

- 1) Alameda County and Contra Costa County adopt an ordinance proposing the district tax by any applicable voting requirements;
- 2) the proposed ordinance is submitted to the electorate and is approved by two-thirds of the voters voting on the ordinance; and,
- 3) the district tax conforms to the Transactions and Use Tax Law.

By law, cities and counties (and special purpose entities) contract with the BOE to administer the ordinances imposing the district taxes.

Various statutes under the Public Utilities Code (PUC) provide for the establishment of a local transportation authority, and authorize that authority to impose a district tax, subject to the applicable voter approval requirement. District taxes imposed under the PUC must conform to the administrative provisions contained in the Transactions and Use Tax Law. The law also requires local transportation authorities to contract with the BOE to perform all functions related to the administration of the ordinance.

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<sup>1</sup> Part 1.6 of Division 2 of the RTC, commencing with Section 7251.

<sup>2</sup> Part 1.7 of Division 2 of the RTC, commencing with Section 7280.

<sup>3</sup> RTC Section 7251.1.

<sup>4</sup> Exceptions authorized through AB 210 (Ch. 194, Stats. 2013, Wieckowski) for Alameda County and Contra Costa County and SB 314 (Ch. 785, Stats. 2003, Murray) for the Los Angeles Metropolitan Transportation Authority.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the BOE's formal position.

**Proposed Law:** This bill authorizes San Mateo County to, in accordance with the district tax requirements of the Bay Area County Traffic and Transportation Funding Act<sup>5</sup>, impose a district tax for transportation programs at a capped rate of 0.5%, which, in combination with other district taxes, would exceed the 2% limitation established in existing law.

The bill also authorizes the TAMC to impose a district tax for transportation programs at a capped rate of 0.375%, which, in combination with other district taxes, would exceed the 2% limitation established in existing law, if all of the following conditions are met:

- 1) TAMC adopts an ordinance proposing the district tax by any applicable voting requirements;
- 2) the proposed ordinance is submitted to the electorate and is approved by two-thirds of the voters voting on the ordinance; and,
- 3) the district tax conforms to the Transactions and Use Tax Law.

The bill states that the Legislature finds and declares that a special law is necessary because of the unique fiscal pressures experienced by the San Mateo County Transportation Authority and the TAMC in providing essential transportation programs.

The bill is effective January 1, 2016. If the ordinances are not approved by the electorate, the applicable statutes will be repealed as of January 1, 2026.

**Background:** Currently, San Mateo County has five district taxes being levied within its borders—three county-wide taxes (two transportation taxes) and two city-wide taxes.

San Mateo County - District Name and Tax Area	Rate	Effective Date	Expiration Date
San Mateo County Retail Transactions and Use Tax (county-wide)	0.50%	04-01-13	03-31-23
San Mateo County Transportation Authority (county-wide)	0.50%	01-01-89	12-31-33
San Mateo County Transit District (county-wide)	0.50%	07-01-82	None
City of Half Moon Bay Transactions and Use Tax (city-wide)	0.50%	04-01-13	03-31-16
City of San Mateo Transactions and Use Tax (city-wide)	0.25%	04-01-10	03-31-18

Currently, Monterey County has 15 district taxes being levied within its borders—one county-wide tax (transportation purposes) and 14 city-wide taxes.

Monterey County - District Name and Tax Area	Rate	Effective Date	Expiration Date
Monterey-Salinas MST Special Transit District (county-wide)	0.125%	04-01-15	03-31-30
City of Carmel-by-the-Sea Transactions and Use Tax (city-wide)	1.00%	04-01-13	03-31-23
City of Del Rey Oaks Transactions and Use Tax (city-wide)	1.00%	04-01-07	03-31-17
City of Del Rey Oaks Transactions and Use Tax (city-wide)	0.50%	04-01-15	None
City of Gonzales Quality of Life Transactions and Use Tax (city-wide)	0.50%	04-01-15	03-31-25
City of King City Transactions and Use Tax (city-wide)	0.50%	04-01-15	03-31-22
City of Greenfield Transactions and Use Tax (city-wide)	1.00%	10-01-12	09-30-17
City of Marina Transactions and Use Tax (city-wide)	1.00%	04-01-11	03-31-26

<sup>5</sup> Division 12.5 of the PUC, commencing with Section 131000.

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Monterey County - District Name and Tax Area	Rate	Effective Date	Expiration Date
City of Monterey Special Transactions and Use Tax (city-wide)	1.00%	04-01-15	03-31-19
City of Pacific Grove Transactions and Use Tax (city-wide)	1.00%	10-01-08	None
City of Salinas Temporary Transactions and Use Tax (city-wide)	0.50%	04-01-06	None
City of Salinas Measure G Transactions and Use Tax (city-wide)	1.00%	04-01-15	03-31-30
City of Sand City 2015 Spec Purpose Transactions and Use Tax (city-wide)	1.00%	04-01-15	None
City of Seaside Transactions and Use Tax (city-wide)	1.00%	07-01-08	None
City of Soledad Temporary Emergency Transactions and Use Tax (city-wide)	1.00%	10-01-12	09-30-32

As previously stated, cities and counties may impose district taxes as long as the combined rate does not exceed 2% within the county. The city district taxes cannot exceed the 2% limit. Because the city of Half Moon Bay imposes a tax of 0.50%, San Mateo County has reached the 2% limit.

Monterey County has one 0.125% county-wide tax and ten 1% city-wide taxes. Because the ten cities each impose a tax at rate of 1%, Monterey County is 0.875% shy of the 2% limit. The City of Greenfield has qualified a 0.75% district tax measure for the November 2015 ballot, which, if approved by the voters, would leave only 0.125% for Monterey County.

**Legislative History:** Over the years, four bills have been approved by the Legislature granting specific authority to local governments to impose a district tax that exceeds the general 2% rate limitation:

- SB 314 (Ch. 685, Stats. 2003, Murray) authorized the MTA to impose a 0.5% district tax for the funding of specified transportation-related capital projects and programs. However, MTA never placed an ordinance before the voters to levy this authorized tax within the 6.5 year time frame.<sup>6</sup>
- AB 1086 (Ch. 327, Stats. 2011, Wieckowski) authorized the County of Alameda to impose a district tax for the support of countywide transportation programs at a rate of up to 0.5%. AB 1086 required that the ordinance proposing the tax be submitted to the electorate on the November 6, 2012 General Election ballot and be approved by the voters. Alameda County voters declined to approve the proposed district tax (Measure B1) on the November 6, 2012 ballot; the measure fell 0.14% short of the 66.6% super-majority needed to pass.
- AB 210 (Ch. 194, Stats. 2013, Wieckowski) extends the authority of Alameda County and authorizes Contra Costa County to impose a countywide transportation program district tax at a rate of up to 0.5%.
- AB 1324 (Chapter 795, Stats. 2014, Skinner) authorizes the City of El Cerrito to impose a general-purpose district tax at a rate of up to 0.5%.

<sup>6</sup> AB 2321 (Chapter 302, Statutes 2008, Feuer) amended PUC Section 130350.5 to authorize, among other things, the 0.5% tax for a period not to exceed 30 years.

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## Commentary:

- 1. District taxes currently administered by the BOE.** As of April 1, 2015, 202 local jurisdictions (city, county, and special purpose authority)<sup>7</sup> impose a district tax for general or special purposes. Of the 202 district taxes, 48 are county-imposed and 154 have city-imposed taxes. Four of the 48 county-imposed taxes are general purpose taxes and 30 are special purpose taxes. Of the 48 county-imposed taxes, 29 are imposed for transportation purposes. Of the 154 city-imposed taxes, 124 are general purpose taxes and 30 are special purpose taxes.

Currently, the individual district tax rates vary from 0.1%<sup>8</sup> to 1%. Some cities and counties have more than one district tax in effect, while others have none. Accordingly, combined state, local and district tax rates generally range from 7.5% to 9.5%, with the exception of the cities of Albany, Hayward, San Leandro, and Union City in Alameda County, the City of El Cerrito in Contra Costa County, and the cities of La Mirada, Pico Rivera, and South Gate in Los Angeles County, which, subject to the specific exemptions discussed above, each have a tax rate of 10%. A listing of the district taxes, rates, and effective dates is available on the BOE's website: [www.boe.ca.gov/sutax/pdf/districtrelatelist.pdf](http://www.boe.ca.gov/sutax/pdf/districtrelatelist.pdf).

- 2. Other California counties at or near the 2% limit.** Alameda, Contra Costa, and Los Angeles Counties have reached the 2% limit. Marin County is 0.25% shy of the 2% limit and San Diego and Sonoma Counties are 0.5% short of the limit.
- 3. Related Legislation.** [SB 767](#) (De Leon) authorizes the Los Angeles County Metropolitan Transportation Authority (MTA) to impose an additional 0.5% district tax for funding transportation-related projects and programs. The tax would be imposed for an unspecified period to be determined by the MTA, and may exceed the existing 2% rate limitation.

Governor Brown recently vetoed [AB 464](#) (Mullin and Gordon), which would have increased the combined rate of all transactions and use taxes imposed in any county from 2% to 3%. In his veto [message](#), the Governor states:

Although I have approved raising the limit for individual counties, I am reluctant to approve this measure in view of all the taxes being discussed and proposed for the 2016 ballot.

**Administrative Costs:** This bill does not increase the BOE's administrative costs because it authorizes San Mateo County and the TAMC to impose a tax that necessitates a county ordinance and voter approval. However, if either county's voters approve an ordinance imposing the tax, the counties would be required to contract with the BOE for its ongoing costs to administer the ordinance.

Currently, San Mateo County has three district taxes each at a 0.5% rate. The BOE's FY 2014-15 administrative costs for these taxes are estimated to be \$2,672,000: \$887,000 (San Mateo County Retail Transactions and Use Tax), \$893,000 (San Mateo County Transportation Authority), and \$892,000 (San Mateo County Transit District).

Currently, Monterey County has one district tax at a 0.125% rate, which became operative on April 1, 2015. Because this tax was operative for three months (April, May, and June) during FY 2014-15, an estimate of BOE's FY 2014-15 administrative costs was not prepared and actual costs have not yet been determined. However, as a point of perspective, the BOE's preliminary estimate to administer Monterey County's 0.125% tax for the FY 2015-16 is \$334,000.

<sup>7</sup> Currently, all district taxes levied exclusively within the borders of either a county or an incorporated city (with the exception of the Bay Area Rapid Transit District, which is comprised of Alameda, Contra Costa, and San Francisco counties and the Sonoma-Marín Rail Transit District). For purposes of calculating the 202 jurisdictions, the Bay Area Rapid Transit District and the Sonoma-Marín Rail Transit District are counted as one jurisdiction, even though each jurisdiction is comprised of three counties and two counties, respectively.

<sup>8</sup> Through specific authority, SB 1187 (Ch. 285, Stats. 2001, Costa) authorized Fresno County to impose a 0.1% district tax for zoological purposes.

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**Revenue Impact:** For FY 2013-14, each of the two San Mateo County district transportation taxes amounted to \$80 million in revenue. According to the Department of Finance (DOF) forecast, taxable sales are expected to increase statewide by approximately 4% in FY 2014-15, 6% in FY 2015-16, 5% in FY 2016-17, and 5% in FY 2017-18. A new 0.5% district tax in San Mateo County would raise approximately \$96 million ( $\$80 \text{ million} \times 120\%$ ) in the first full year of implementation.

For the FY 2013-14, an estimated Monterey County 0.375% tax would have amounted to \$22.4 million in revenue. Using DOF's forecast of taxable sales increases, a new 0.375% district tax in Monterey County would raise approximately \$26.8 million ( $\$22.4 \text{ million} \times 120\%$ ) in the first full year of implementation.

This revenue estimate does not account for any changes in economic activity that may or may not result from enactment of the proposed law.